



General Assembly

January Session, 2001

Amendment

LCO No. 8512

Offered by:

SEN. HARP, 10th Dist.

SEN. PETERS, 20th Dist.

SEN. PRAGUE, 19th Dist.

To: Subst. Senate Bill No. 1121

File No. 618

Cal. No. 407

"AN ACT CONCERNING THE ESTABLISHMENT OF A STATE-WIDE HEALTH CARE DATA SYSTEM."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "(NEW) (a) As used in this section:

4 (1) "Cooperative arrangement" means an agreement among two or
5 more health care providers for the purpose of providing health care
6 services, including, but not limited to, negotiating fees, prices or rates,
7 sharing, allocating or referring patients, personnel, instructional
8 programs, support services or facilities or medical, diagnostic or
9 laboratory facilities or procedures, and includes a merger, acquisition
10 or joint venture of two or more health care providers, including
11 physician practice groups;

12 (2) "Health care provider" means a state licensed or certified person

13 or facility that delivers any health care service, including any person
14 licensed to practice pharmacy under the provisions of chapter 400j of
15 the general statutes;

16 (3) "Certificate of public advantage" means a certificate issued by the
17 Attorney General authorizing health care providers that are parties to
18 a cooperative arrangement to engage in conduct that could tend to
19 lessen competition in a relevant health care market, upon a showing
20 that such cooperative arrangement meets the criteria set forth in
21 subdivision (2) of subsection (c) of this section; and

22 (4) "Attorney General" means the Attorney General of the state of
23 Connecticut.

24 (b) Any two or more health care providers may apply to the
25 Attorney General for a certificate of public advantage to authorize a
26 cooperative arrangement. The application shall include (1) the name of
27 the applicant or applicants, (2) a description of the nature and scope of
28 the cooperative arrangement, (3) any consideration passing to any
29 party under the agreement, and (4) evidence in support of the criteria
30 set forth in subdivision (2) of subsection (c) of this section. Each
31 application shall be accompanied by a fee of one hundred dollars. Any
32 information of a proprietary nature submitted in such application that
33 meets the standards set forth in subdivision (5), (8) or (10) of
34 subsection (b) of section 1-210 of the general statutes shall be deemed
35 confidential and exempt from public disclosure.

36 (c) (1) The Attorney General shall review each application submitted
37 pursuant to subsection (b) of this section and, not later than ninety
38 days following receipt of such application, issue a written decision
39 approving or denying the application. The decision shall set forth the
40 Attorney General's findings with regard to the benefits and
41 disadvantages set forth in subdivision (2) of this subsection and a
42 conclusion as to whether the benefits outweigh the disadvantages to
43 the people of this state. The Attorney General may conduct a hearing
44 to obtain information necessary in making such decision.

45 (2) In reviewing applications under this section, the Attorney
46 General may consider the criteria established in subsection (a) of
47 section 19a-637 of the general statutes that the Attorney General deems
48 relevant to the application for a certificate of public advantage and any
49 benefits of such cooperative arrangement in furthering the goals of
50 health care reform including, but not limited to: (A) Enhancement of
51 the quality of health services to consumers; (B) gains in cost efficiency
52 of health services; (C) improvement in utilization of and access to
53 health services and equipment; and (D) avoidance of duplication of
54 health care resources. The Attorney General shall not approve an
55 application for a certificate of public advantage unless the Attorney
56 General finds that the benefits of the proposed cooperative
57 arrangement outweigh the disadvantages including, but not limited to:
58 (i) The potential reduction of competition; (ii) the adverse impact on
59 quality, access or price of health care services to consumers; and (iii)
60 the availability of arrangements to achieve the same benefits that are
61 less restrictive of competition.

62 (3) Cooperative arrangements authorized by the Attorney General
63 in a certificate of public advantage issued pursuant to this section shall
64 be deemed to be conduct taken pursuant to the provisions of the
65 general statutes and in furtherance of the public purposes of this state
66 and are not subject to the provisions of chapter 624 of the general
67 statutes, except that the Attorney General may utilize the powers set
68 forth in section 35-42 of the general statutes. This section shall not be
69 construed to require any health care provider to obtain a certificate of
70 public advantage in order to enter into a cooperative arrangement, and
71 absent approval of such cooperative arrangement by the Attorney
72 General, the legality of such cooperative arrangement shall be
73 determined by applicable antitrust law.

74 (4) Health care providers in a cooperative arrangement authorized
75 pursuant to this section shall submit an annual progress report to the
76 Attorney General on a form prescribed by the Attorney General. The
77 report shall be accompanied by a fee of one hundred dollars.

78 (5) The Attorney General shall actively supervise the cooperative
79 arrangements authorized pursuant to this section to determine
80 whether the conduct should continue to be authorized. The Attorney
81 General shall review the conduct through annual progress reports
82 submitted by the health care providers in a cooperative arrangement in
83 accordance with subdivision (4) of this subsection to evaluate whether
84 the conduct is consistent with the application and whether the benefits
85 continue to outweigh the disadvantages. If the Attorney General has
86 reason to believe that the likely benefits no longer outweigh the
87 disadvantages, the Attorney General shall notify the holder of the
88 certificate and hold a hearing to determine whether such certificate
89 should be modified or revoked. Such modification or revocation shall
90 take effect ninety days from the receipt of notice of a final decision by
91 the Attorney General. The Attorney General shall not modify or revoke
92 a certificate of public advantage more than three years after the initial
93 issuance of such certificate.

94 (d) Any person denied a certificate of public advantage by the
95 Attorney General pursuant to this section and any holder of a
96 certificate of public advantage that has been modified or revoked by
97 the Attorney General pursuant to subdivision (5) of subsection (c) of
98 this section may appeal therefrom as if such denial, modification or
99 revocation were a contested case within the meaning of chapter 54 of
100 the general statutes.

101 (e) No managed care organization, as defined in subdivision (2) of
102 section 38a-478 of the general statutes, shall refuse to negotiate in good
103 faith with parties to a cooperative arrangement authorized by the
104 Attorney General. Any managed care organization that violates this
105 section shall be subject to a civil penalty of not more than twenty-five
106 thousand dollars per day, for each violation. The Attorney General
107 may institute proceedings to enforce the provisions of this section in
108 the superior court for the judicial district of Hartford.

109 (f) A violation of subsection (e) of this section shall constitute a
110 violation of chapter 735a of the general statutes."